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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/654,179	09/03/2003	Ahmad M. Beirut	BEIRU-001A	5020

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EXAMINER

BROWN, MICHAEL A

ART UNIT PAPER NUMBER

3764

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/654,179	<b>Applicant(s)</b> BEIRUTI, AHMAD M.	
	<b>Examiner</b> Michael Brown	<b>Art Unit</b> 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-25 is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-12, 15 and 16 is/are rejected.
- 7) ☒ Claim(s) 8, 9, 13, 14, 17 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11-17-03</u> . | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Skaja.

Skaja discloses in figures 16-18 a shoe sole that anticipates a massing and reflexology system comprising a core body 50 defining opposing top (col. 14, lines 63-65) and bottom surfaces, a plurality of cups (fig. 18) disposed on the top surface (fig. 18), each cup defining a substantially concave surface (the lower portion of the cup provides a concave surface), projecting outwardly from the top surface (the cup member is projecting outwardly away from the top surface), a plurality of pressure nibs 53, centrally disposed on the concave surface (when 53 is snapped fitted into the cup) and the core body is fabricated from a resilient, elastomeric material (col. 8, lines 49-56).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 11-12 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jurgens in view of Lenke.

Jurgens discloses in figures 1-8 a massaging reflexology system (col. 2, lines 26-29), comprising a core body (fig. 1), defining a top surface 20, a bottom surface (fig. 1), a plurality of cups 22, defining a substantially concave surface (fig. 2) extending inwardly from the top surface, a plurality of pressure nubs 28, disposed on the concave surface of each cup (fig. 8), the core body is generally in the shape of a shoe insole (fig. 1), with the top surface being contoured (col. 3, lines 35-36), the core body is in the shape of a heel portion (the heel portion in fig. 1), the core body includes an intermediate portion (fig. 1), the thickness of the core body varies along a length (fig. 1), the core body is generally configured in the shape of a shoe insole having a heel portion, an intermediate portion, a toe portion and an arch portion (all portions are shown in fig. 1), the thickness of the heel portion being greater at the heel and arch portions versus the intermediate and toe portions (fig. 1), the core body is fabricated from a resilient, elastomeric material (rubber), the pressure nub is generally hemispherical shape (30 in fig. 6), the core body and the cups are formed as a unitary structure (fig. 8) and the core body is configured to circumscribe a handle grip of an implement (the core body is configured to be gripped by an implement). However, Jurgens doesn't disclose the cup extending outwardly from the top surface. Lenke teaches in figure 1 a plurality of cups 16 extending outwardly from a surface 6. It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the cups disclosed by Jurgens could be fabricated to extend outwardly

from the top surface as taught by Lenke. It is simply a matter of forming the cups to extend inward or outward. It doesn't matter which direction the cups extend as long as the nub is located in the center to provide a massage reflexology system.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims above, and further in view of Louie '600.

Louie teaches in figure 6 a core body having cups 24 on a bottom surface. It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the core body disclosed by Jurgens and taught by Lenke could be fabricated with cups on the bottom surface as taught by Louie in order to use the cups on the bottom surface to provide traction while wearing the device.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims above, and further in view of Bouchoms.

Bouchoms teaches in figure 1 a core body comprising a grid 7, of orthogonally – arranged support webs 15, extending perpendicularly from and disposed along the bottom surface. It would have been obvious to one ordinary skill in the art at the time that the invention was made that the grid as taught by Bouchoms could be incorporated into the device disclosed by Jurgens and taught by Lenke in order to provide traction to the bottom surface of the core body.

#### ***Allowable Subject Matter***

Claims 8-9, 13-14 and 17-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 19-25 are allowed.

***Conclusion***

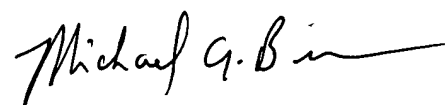
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. No additional prior art was cited in this office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brown whose telephone number is 571-272-4972. The examiner can normally be reached on 5:30 am-4:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gergory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M. Brown  
May 22, 2006



**MICHAEL A. BROWN  
PRIMARY EXAMINER**